



IN REPLY REFER TO

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington, D.C. 20240

DIRECTOR'S ORDER NO. 184

Subject: Use of Federal Assistance Funds for Operation and Maintenance of Land and Water Conservation Fund Projects

Sec. 1 What is the purpose of this Order? This Order amends 522 FW 7 to remove restrictions on using Federal Assistance funds to operate or maintain properties or facilities purchased under the Land and Water Conservation Fund (LWCF).

Sec. 2 What is the LWCF? The Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4) established a fund in the U.S. Treasury to subsidize State and Federal acquisition of lands and waters for recreational and conservation purposes. The LWCF derives revenues from the sale of surplus Federal real property, motorboat fuel taxes, and oil and gas exploration and extraction on the Outer Continental Shelf. The Act specifies that operation and maintenance of projects funded by the Act must be financed "at State expense" [16 U.S.C. 4601-8(f)(1)].

Sec. 3 What is the current Service policy on what funds States can use for operation and maintenance of LWCF-funded projects? States cannot use LWCF funds for operation and maintenance of properties or facilities purchased or constructed under an LWCF project. However, States may use other Federal or State funds that the State manages.

Sec. 4 How should I amend 522 FW 7? Pending publication of a revised 522 FW 7, make the following changes:

a. Delete last sentence of paragraph 7.4C, which reads: *Refer to paragraph 7.5 for guidance relating to facilities purchased or constructed under the Land and Water Conservation Fund Act.*

b. Delete paragraph 7.5B.

Sec. 5 Why is the Service removing this restriction on using Federal Assistance funds? In an April 21, 2005, meeting, representatives of the Office of the Solicitor (Department of the Interior) determined that we were incorrect in our interpretation that the Land and Water Conservation Act prohibits use of Federal Assistance funds for operation and maintenance of facilities funded under the Act.



Sec. 6 What is the effective date of the Order? This Order is effective immediately. It will expire on June 30, 2006, unless amended, superseded, or revoked. We will revise 522 FW 7 to include the contents of this Order.


DEPUTY DIRECTOR

Date: June 20, 2005